

REMARKS

Applicant has studied the Office Action dated January 26, 2005, and has amended the claims to distinctively claim the subject matter of the invention. By virtue of this amendment, claims 1, 3-5, 7, 19, 23 and 25-26 have been amended, and claims 2 and 24 have been cancelled. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

Objection to the Specification

The specification was objected to because of informalities. Applicant has amended paragraph [0039] of the specification to overcome the objection.

Claim Objections

Claims 1, 3, 7, 19 and 23-26 were objected to because of informalities. Claim 24 has been cancelled. Claims 1, 3, 7, 19, 23 and 25-26 have been amended to overcome the objection.

§112 Rejections

Claims 1, 4, 5 and 19 were rejected under 35 USC §112 as indefinite. Claims 1, 4, 5 and 19 have been amended to overcome the rejections.

Prior Art Rejections

A rejection under 35 USC §102 requires that the cited reference teach all the claimed elements. A rejection under 35 USC §103 requires that the combined references suggest the claimed combination. (MPEP 706 and 2141 et seq.).

Under the Graham test, three factors must be evaluated: the scope and content of the prior art; the differences between the prior art and the claimed invention; and the level or ordinary skill in the art. (MPEP 706 and 2141 et seq.).

§102

Claims 1 and 14-25 were rejected under 35 USC §102 as anticipated by Gabai et al. (US Patent No. 6,290,566) (Gabai). This rejection is respectfully traversed.

The present invention provides an apparatus and method for operating toys through computer communication. Claim 1 is indicative of the independent claims and includes "an electronic mail server supplying message information through electronic mails in a network".

Gabai is directed to an interactive talking toy and teaches inputting information to the toy through various input devices. Column 13, Lines 60-66 of Gabai states: "Each toy 120 preferably comprises a plurality of input devices 140 and output devices 150, as seen in FIG. 1B. The input devices 140 may comprise, for example on or more of the following: a microphone 141; a microswitch sensor 142; a touch sensor (not shown in FIG. 1B); a light sensor (not shown in FIG. 1B); a movement sensor 143, which may be, for example, a tilt sensor or an acceleration sensor." However, Gabai does not teach or suggest using "an electronic mail server supplying message information through electronic mails in a network", as required by the pending claims. Claims 14-24 depend on claim 1 and include all of its limitations, and claim 25 substantially incorporates all of the limitations of claim 1.

For the above reasons, Applicant submits that the pending claims recite at least one feature not taught or suggested by the references. Consequently, Applicant submits that the pending claims are allowable over the references. Applicant therefore requests that the Examiner reconsider and withdraw the §102 rejections.

§103

Claims 2-13 and 26-28 were rejected under 35 USC §103 as obvious in view of Gabai and Hachiya et al. (US Patent No. 6,175,857) (Hachiya). This rejection is respectfully traversed. Claim 2 has been cancelled and claim 1, as amended, substantially incorporates the elements of claim former claim 2.

Claim 1 of the pending application includes "an actual toy being inputted with the message information." Hachiya is directed to a method and apparatus for processing attached e-mail data and storage medium for processing program for attached data. Hachiya pertains to a virtual toy, not an actual toy (a toy in real space). The abstract of Hachiya states "a virtual pet displayed on a real world oriented GUI [graphical user interface] screen." Further, Column 7, Lines 18-23 of Hachiya states "For superposed display on the GUI picture 100 of a post pet 103 simulating a bear doll and a postman 104 simulating a robot doll as agents for performing E-mail sending/reception, the CPU 21e writes bit map data of the post pet 103 and the postman 104 at pre-set positions on the RAM 21j in superposition on the bit map data corresponding to the GUI picture 100. This displays the post pet 103 and the postman 104 on the GUI screen 100." Therefore, Hachiya teaches displaying a virtual pet on a GUI screen, but does not teach or suggest using "an actual toy being inputted with the message information", as required by the pending claims.

Claims 3-13 are dependent on allowable claim 1 and include all of its limitations. Claim

26 substantially incorporates all of the limitations of claim 1, and claims 27-28 depend on claim 26. Applicant submits that since the independent claims are not taught or suggested by the references, that the dependent claims are also allowable over the references.

Skill in the art does not provide the differences between the references and the claimed invention. An engineer skilled in the art would not develop the claimed invention with these references and skill in the art.

For these reasons, Applicant submits that the claimed invention is not taught or suggested by the references alone or in combination. Consequently, Applicant submits that the pending claims are allowable over the references. Applicant therefore requests that the Examiner reconsider and withdraw the §103 rejections.

Conclusion

Applicant respectfully requests that the Examiner reconsider and withdraw the rejections of the claims and issue a notice of allowance.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have expressly argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California,

telephone number (213) 623-2221 to discuss the steps necessary for placing the application in condition for allowance.

Date: April 26, 2005

Respectfully submitted,

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